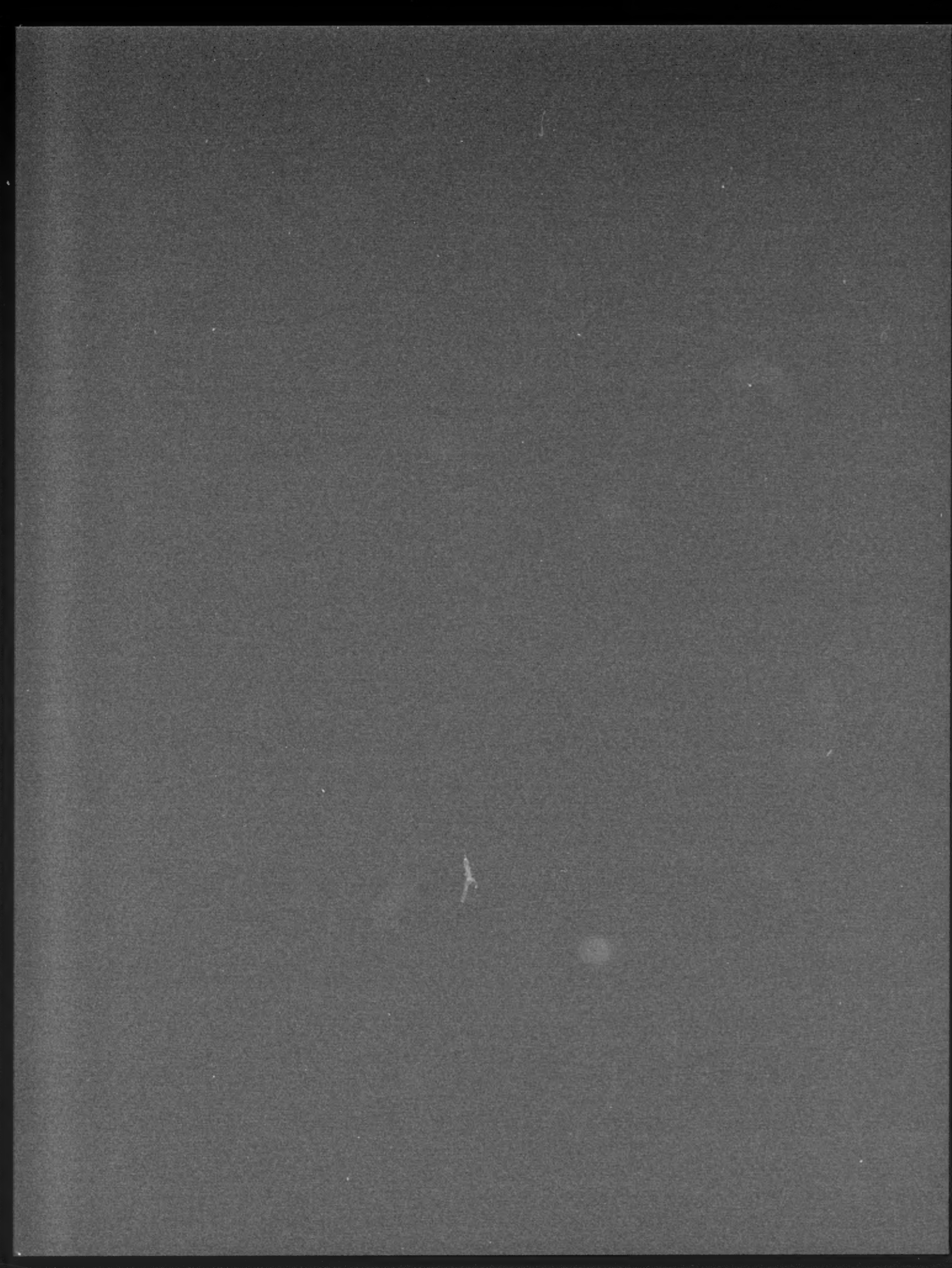


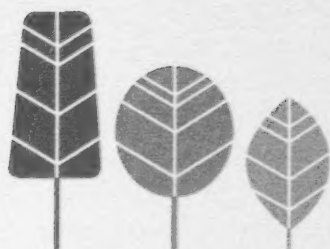
# THE CROWN FOREST SUSTAINABILITY ACT, 1994: *20 YEARS LATER*



Environmental  
Commissioner  
of Ontario







# TABLE OF CONTENTS

<b>Commissioner's Message</b>	1
<b>The Crown Forest Sustainability Act, 1994</b>	3
The Evolution of Forestry Law from the 1950s to the 1990s	4
The <i>Crown Forest Sustainability Act, 1994</i> : A Bold New Vision	5
Key Elements of the CFSA	5
20 Years Later	9
Dwindling Oversight of MNRF	11
Whittling Away at the CFSA	12
ECO Comment	13
Comment from the Ministry of Natural Resources and Forestry	13

This report was previously issued as part of the 2013/2014 Annual Report of the Environmental Commissioner of Ontario.



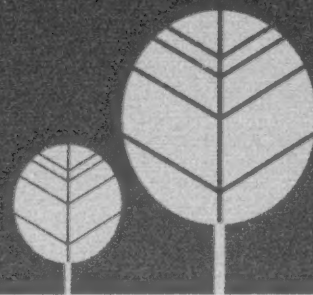
# COMMISSIONER'S MESSAGE

The story of the *Crown Forest Sustainability Act, 1994 (CFSA)* starts in the mid-1980s when there was much turmoil in the forests of northern Ontario. It was created by a clash of paradigms. The perspective that had been dominant for decades was the view of the Crown forest as an engine of the economy, responsible for thousands of jobs and the source of considerable wealth. That view was reinforced by the *Timber Management Act*, the legislation that governed the forest industry operations. The northern forests were primarily viewed as a source of lumber, pulp, veneer and waferboard. Other uses of the forests or other forest values were seen as secondary at best, to be enjoyed as long as they didn't interfere with timber management.

But in the following years different points of view emerged and gained followers. These people began to see the Crown forest and the values implicit in it through a different lens. They were a disparate group. There were recreational campers and canoeists, cottagers, environmental activists, hunters, naturalists and scientists from the emerging field of forest ecology. They were drawn together by a shared concern over forestry practices of the day including large clear cuts, poor regeneration practices, pesticide use, loss of public access, cutting to the shore of lakes, and the loss of old growth forests.

The disagreement between the two paradigms on how the forest should be managed was brought to a boil when the government started to develop a class environmental assessment for timber management on Crown lands. The process required public hearings which, once started, became heated debates between the two schools of thought: was it timber management or was it forest management? It became further complicated when aboriginal peoples engaged in the discussion, rightly concerned that major decisions were being considered for the forests on their traditional lands. The debates raged and the hearings dragged on for four years; after a further two years of deliberation, a final Timber Management Class EA was produced in 1994. It had 115 terms and conditions reflecting a completely new approach to forestry which departed substantially from previous practice. But that was not the only outcome.

The catharsis that had emerged from the years of hearings had a profound effect on foresters and the forest policy community both inside and outside government. The paradigm had changed. There was consensus that the forest was a complex ecological system with many values, not just a provider of wood products. It was recognised that previous forest management practices were degrading the forest such that it would not maintain those values or even provide the high quality timber products in the long-term. Existing forest management, in the parlance of the day, was not sustainable.



So, concurrent with the two-year deliberation by the Environmental Assessment Board, policy makers within the Ministry of Natural Resources began from scratch to design a new legislative framework for the management of the Crown forest that would reflect the new understanding. It was passed by the Legislature as the *Crown Forest Sustainability Act, 1994* and proclaimed into law. The *CFSA* was widely praised as a ground-breaking law. It was at the cutting edge of new concepts of sustainable forest management that were emerging from thinking that was initiated at the Rio Earth Summit in 1992.

The *CFSA* has now defined forest management in Ontario for twenty years. The original vision is largely intact, although there have been attempts to diminish and whittle away at some of its provisions. There also has been a concerted effort to diminish the capacity of the Ministry of Natural Resources and Forestry to oversee its implementation. The legislation has provided tremendous benefits to the forest ecosystems of Ontario and, by extension, its people. With the stresses of climate change and present day proposals to expand industrial forestry beyond the Area of the Undertaking into the Far North, the vision of the *CFSA* is needed more than ever.

The following document is an excerpt from my Annual Report to the Legislature in October 2014. It is a preliminary review of the implementation of the *CFSA* after 20 years of operation. No comprehensive review has ever been done of this critically important law. I offer this brief discussion of the *CFSA* here under separate cover in the hope that it will spark a wider conversation among Ontarians, which may re-enforce and re-invigorate our commitment to truly sustainable forest ecosystems for future generations.

# THE CROWN FOREST SUSTAINABILITY ACT, 1994

**T**wenty years ago, Ontario adopted a bold new approach to the management of our forests. The *Crown Forest Sustainability Act, 1994 (CFSA)* transformed forest management by directing that public forests be managed "to meet [the] social, economic and environmental needs of present and future generations."<sup>1</sup> The government stipulated that sustainability – the long-term health of the forests – must be the central purpose of forest management in Ontario. Since that time, there have been significant economic shifts in the forestry sector that have impacted the needs of forest-dependent communities, as well as advances in our understanding of the science behind forest ecosystems. While adjustments and tweaks have been made to particular forest policies and programs since 1994, the government has never undertaken a comprehensive assessment to see if the total management system is working.



## Ontario's Forests

Almost two-thirds of Ontario is covered by forests, stretching from Hudson Bay in the north to Lake Erie in the southwest. Our forests contain hundreds of plant and animal species from the iconic moose, North America's largest land animal, to the endangered drooping trillium. Our forests also are part of a global network of ecosystems that provide key habitat for migrating birds, such as the Canada warbler, which travels between our province and South America each year.

Forests supply us with many of life's necessities, including clean air, fresh water and food. They also offer hundreds of thousands of visitors beautiful places to hike, paddle, hunt, camp and connect with nature. Forests are a defining feature across the province, and their importance is reflected in the way Ontarians choose to use and value them.

Almost all of Ontario's forests are on publicly owned Crown land. These lands are managed by the Ministry of Natural Resources and Forestry (MNRF), which is charged with ensuring forest sustainability.<sup>2</sup>



## Commercial Logging in Ontario

Commercial timber harvesting takes place across the vast middle swath of the province, within a zone known as the "Area of the Undertaking" that covers about 438,000 km<sup>2</sup>. Since 1994, an average of almost 1,900 km<sup>2</sup> of forest has been logged annually.<sup>4</sup> The forestry sector contributes billions of dollars to the provincial economy and employs thousands of Ontarians, making it a significant financial driver in many communities across the province.<sup>5</sup> In 2011, revenues from primary and secondary wood products in Ontario were estimated at \$11.9 billion.<sup>6</sup> More than 100 communities in Ontario are considered to be moderately to highly dependent on the forest sector.<sup>7</sup>

## The Evolution of Forestry Law from the 1950s to the 1990s

Historically, forestry policy focused almost exclusively on cutting down trees for timber and pulp; it managed our forests for short-term financial benefit.<sup>8</sup> Ontario's previous forestry law, the *Crown Timber Act*, was enacted in 1953 and centred on the concept of sustained yield, attempting to balance forest growth with timber harvesting to ensure a continuous resource flow to industry.<sup>9</sup> This law did not address broader issues of ecological and social sustainability.<sup>10</sup> It also placed little weight on other forest uses, such as conservation, recreation and the harvest of other resources besides timber.

Over time, public perceptions and the scientific understanding of forests began to change, challenging the conventional ways of thinking about their management. The importance of ecological and social values, coupled with a demand for outdoor recreational opportunities, became more widely recognized.<sup>11 12</sup> Heated conflicts arose over logging, such as in Ontario's old-growth forests in Temagami, heightening public awareness of harvesting and forest regeneration issues. Many groups began to warn loudly of the shortcomings of forest management. For example, a task force report in 1983, *The Last Stand*, warned of low levels of forest regeneration, expected wood shortages for industry and questionable provincial forestry data.<sup>14</sup> As public debate around sustainability and forests grew, politicians recognized the need to change our Crown forest management system.



This desire for change ultimately led to public hearings, spanning over four and a half years, to develop a class environmental assessment for forestry activities, known as the 1994 Timber Class EA (see box). Concurrently, a re-examination of the *Crown Timber Act* led to a dramatic shift in forestry law in Ontario with the introduction of the *CFSA* in 1994.

## **The Crown Forest Sustainability Act, 1994: A Bold New Vision**

With the passage of the *Crown Forest Sustainability Act, 1994*, Ontario's Cabinet laid out a bold vision for a new approach to forestry: "Our goal is to ensure the long-term health of our forest ecosystems for the benefit of the local and global environments, while enabling present and future generations to meet their material and social needs."<sup>15</sup> This Cabinet policy reinforces the principles enshrined in the *CFSA*:

- Large, healthy, diverse and productive Crown forests and their associated ecological processes and biological diversity should be conserved.
- The long-term health and vigour of Crown forests should be provided for by using forest practices that, within the limits of silvicultural requirements, emulate natural disturbances and landscape patterns while minimizing adverse effects on plant life, animal life, water, soil, air and social and economic values, including recreational values and heritage values.<sup>16</sup>

This vision carefully balanced the need for wood products with the protection of equally important values, such as old growth forests, healthy wildlife populations and recreation. It recognized that our province is fortunate to possess vast forests that can sustain both commercial logging and a healthy environment; it did not postulate a false dichotomy between jobs and the environment.

The Cabinet direction, which was reflected in the new law, stressed the necessity of meeting wood supply needs, as well as: diversifying employment within the forestry sector; providing for other renewable goods from our forest; investing sufficient funds to maintain forest sustainability; and providing for a range of quality tourism opportunities.<sup>17</sup>

## **Key Elements of the CFSA**

### **MNRF Responsibility for Forest Sustainability**

The responsibility to meet the objectives of the *CFSA* lies with the Ministry of Natural Resources and Forestry. To ensure the sustainability of Crown forests, MNRF's job is to provide leadership and oversight of the forestry industry through policy and program development, as well as scientific monitoring and enforcement. While the *CFSA* envisages an important role for MNRF to support Ontario's forest industry, MNRF's primary responsibility is to protect the needs of Ontario's forest-dependent communities and the long-term sustainability of forest ecosystems. In theory, the *CFSA* shifted MNRF's role from a narrow focus on logging to a much broader focus on the 'triple bottom line.'





### **Forest Management Planning**

Under the Act, MNRF divides Ontario's forests into a number of "forest management units," which are manageable-sized geographic areas designed to be governed by individual "forest management plans." Each forest management plan details the strategies and objectives for sustainably managing the designated block of forest. The scale of these management units is important to ensure that the forest management plan adequately addresses the particular needs of communities, the local economy and the environment.<sup>18</sup>

### **Allocation and Licensing**

The second key premise of the *Crown Forest Sustainability Act, 1994* is that private companies will develop forest management plans pursuant to licenses issued by MNRF.<sup>19</sup> MNRF issues several different types of licenses to companies to harvest trees within the designated management units.

Sustainable Forest Licences (SFLs) are long-term licences that allow a licensee to harvest forest resources in a specified forest management unit for up to 20 years (with the possibility of extension).<sup>20</sup> A licence holder is an integral part of the forest management system and is responsible for developing a forest management plan that explains, in great detail, how the licensee will sustainably manage the forest.<sup>21</sup>

All forest management plans must be approved by MNRF before they can take effect, and the law directs that plans cannot be approved "unless the Minister is satisfied that the plan provides

for the sustainability of Crown forest, having regard to the plant life, animal life, water, soil, air and social and economic values, including recreational values and heritage values, of the Crown forest."<sup>22</sup> The plans govern everything from harvest operations to access road construction and removal, as well as forest renewal and monitoring.<sup>23</sup>

Forest Resource Licences (FRLs) allow timber harvesting, but cover a smaller geographic area than SFLs and are issued for periods up to five years.<sup>24</sup> FRLs may be granted for lands already subject to an SFL, with the SFL holder continuing to be responsible for overall forest management.<sup>25</sup>

MNRF also grants Supply Agreements to forest resource users, which guarantees those companies a set volume of wood supply for a period of time.<sup>26</sup> Supply agreements can obligate FRL holders to supply their harvested wood to a specific licensed mill operator. In turn, MNRF licenses the operation of the mills through Forest Resource Processing Facility Licenses.<sup>27</sup> The volumes of wood and the scale of these licensed operations vary significantly, ranging from small wood chippers to large sawmills.<sup>28</sup>

### **Independent Forest Audits**

A key element of the CFSA's framework is a system of checks and balances created through a requirement for independent forest audits, at least every five years, for each forest management unit. The results of these audits are tabled in the Ontario Legislature. Third party auditors assess:

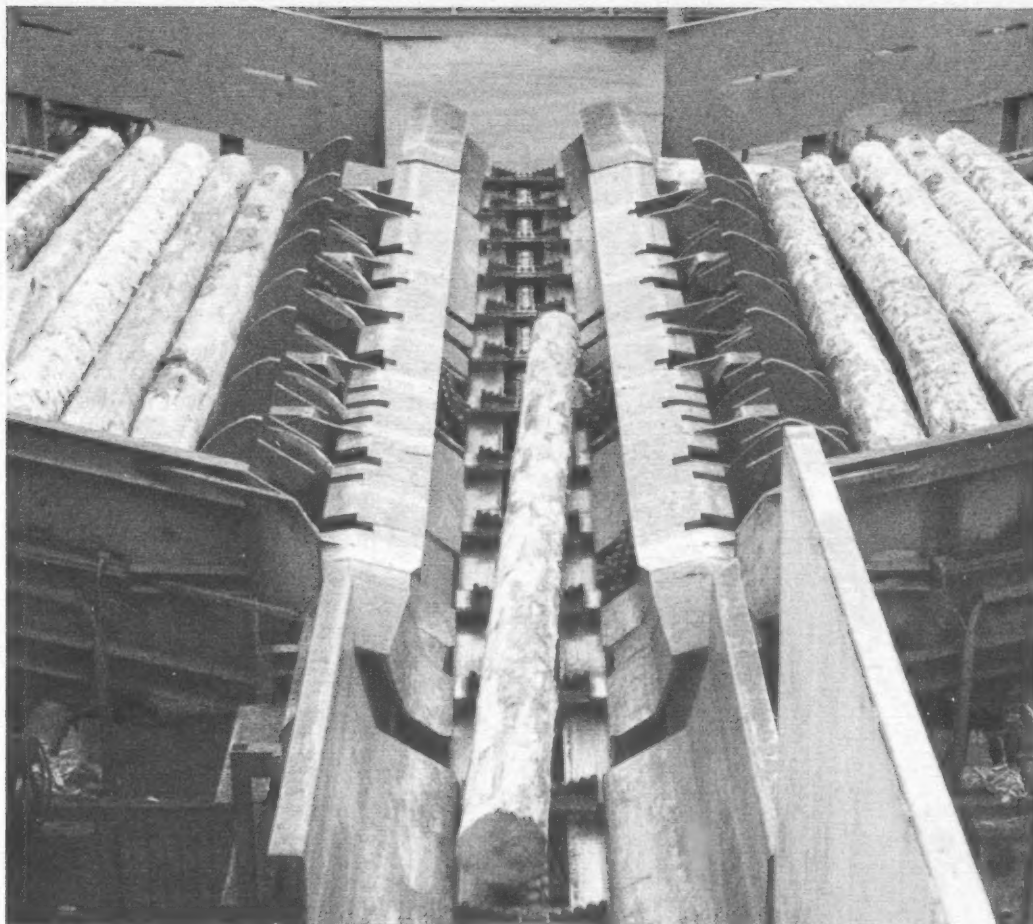
- forest management plans and activities to ensure compliance with the law and forestry policies;
- the effectiveness in meeting planned objectives;
- whether shortcomings revealed by a previous audit have been addressed; and,
- the licensee's compliance with the terms and conditions of their licence.<sup>29</sup>

The audit can include recommendations to the licensee to address non-compliance or improve effectiveness.<sup>30</sup> According to MNRF, independent forest audits on average show a 95 per cent compliance rate with the CFSA, ministry policies and guides.<sup>31</sup> Audits can also include recommendations to MNRF if the auditors conclude that improvements to ministry direction are necessary.

### **Investing in the Future of Forests**

A strategic objective of our forest management system is to ensure that revenues from forest uses cover the investments required to maintain forest sustainability.<sup>32</sup> To meet this objective, the CFSA established two trusts funded by fees paid by license holders; these fees are intended to be in line with the benefits licensees receive from using Crown forests.

The Forestry Futures Trust is designed to fund needed silviculture activities where Crown forest resources have been damaged by fire or natural causes, or where a licensee has become insolvent (serving as a kind of insurance policy for forest regeneration).<sup>33</sup> The trust also provides funding for intensive stand management, pest control and the independent forest audits. The trust is funded through fees levied on all licence holders and administered by an arm's length body.



The Forest Renewal Trust is dedicated to regenerating and maintaining forest health.<sup>34</sup> The *CFSA* requires all licence holders to pay a fee to the province that goes into a special account for this purpose. MNRF varies the applicable charge based on the management unit and tree species in order to reflect the regional differences in cost based on forest types and species.

MNRF states that "both Trusts are significant parts of the Ontario's forest management program."<sup>35</sup>

### **Learning through Doing**

Accurate and ongoing feedback on how the resource is being managed is key to forest management.<sup>36</sup> The *CFSA* requires that the Minister of Natural Resources and Forestry prepare a report on the state of the Crown forests at least once every five years to provide 'a big picture' overview.<sup>37</sup> The report must address a range of topics including: the status of the forest resources using indicators; advances in forest research; external factors influencing the management of Ontario's forests; and a summary of progress of ongoing negotiations with Aboriginal peoples.<sup>38</sup> This type of reporting is, in theory, based on comprehensive monitoring by MNRF.



## 20 Years Later

### De-evolution of the Vision

The CFSA assumes that forest management units are operated by private companies pursuant to a ministry licence. Over time, MNRF has incrementally consolidated and reduced the total number of forest management units. In the 1990s, there were 90 forest management units in Ontario; currently, there are 41. While arguably cost-effective in the short-term, the creation of larger-scale forest management units could lead to management challenges, reduce their relevance to local forest-dependent communities, and generate inadequate information on local forest ecology.

In 2009, the Ontario government announced a substantial review of the forest tenure system (i.e., the system for allocating and licensing timber). This review included a proposal to reduce the number of forest management units to between 5 and 15, run by new Local Forest Management Corporations (LFMCs). The government stated that these LFMCs would increase market competition, while allowing for greater local and Aboriginal community involvement. However, after industry backlash, the *Ontario Forest Tenure Modernization Act* was passed in 2011; the Act allows just two LFMCs to be created as pilot projects.<sup>39</sup> Currently, there are 32 SFL holders operating forest management units; nine forest management units are being run by MNRF because of the lack of interest from the business community.

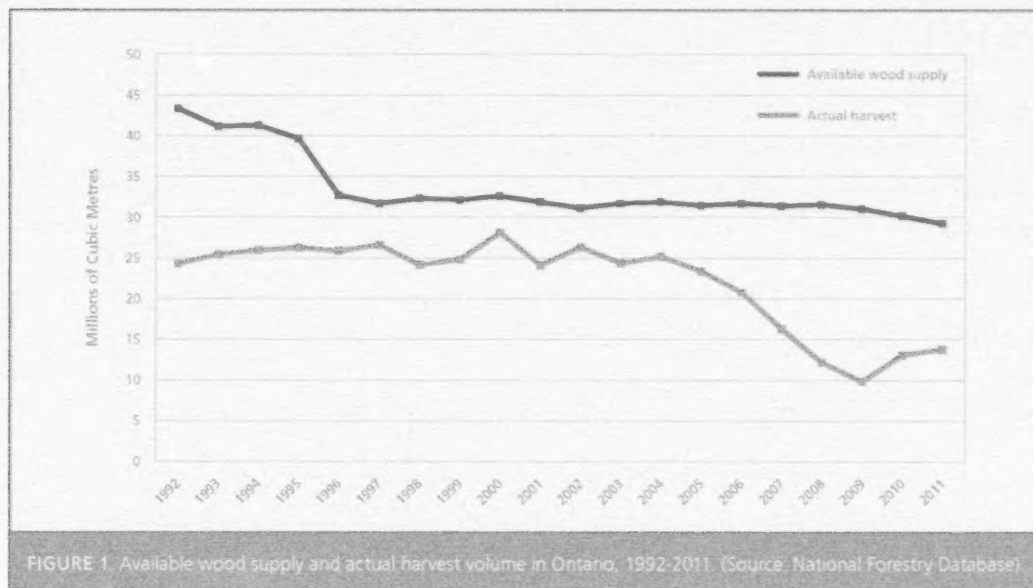
Population changes in ten of Ontario's forest-dependent communities, 1996 to 2011			
Municipality	1996	2011	Population change from 1996-2011 (%)
Chapleau	2,934	2,116	-28%
Dubreuilville	990	635	-36%
Hornepayne	1,480	1,050	-29%
Wawa	4,145	2,975	-28%
White River	1,022	607	-40%
Greenstone	6,530	4,724	-28%
Nipigon	2,210	1,631	-26%
Atikokan	4,043	2,787	-31%
Marathon	4,791	3,353	-30%
<b>Average population decrease</b>	<b>30,219</b>	<b>21,266</b>	<b>-30%</b>

**TABLE 1.** Population changes in a sample of ten northern Ontario communities with at least one forest resource processing facility that closed temporarily or permanently during the period 1996 to 2011 (Source: Statistics Canada) <sup>40, 41</sup>

## The Boom and Bust of Commercial Logging

In building a sustainable forestry sector, one of MNRF's strategic objectives is to manage Ontario's forests in a manner that will "encourage optimum levels and diversity of employment ... while being consistent with all other strategic objectives."<sup>40</sup> The fate of many towns across northern Ontario is closely tied to the health of the forest industry (see Table 1).

In the 1990s, the forest industry experienced a period of growth and success. However, both harvest volumes and forest product revenues decreased significantly over the next ten years. This resulted in mill closures and layoffs; direct forestry jobs in Ontario decreased from 84,600 in 2002 to 55,600 in 2012, according to Natural Resources Canada.<sup>43</sup> Since then, harvest volumes have increased slightly but still remain short of historical levels (see Figure 1). A large part of this industry downturn is attributed to the typical boom-bust commodity cycle, which was exacerbated by the global economic recession.



## Not Paying Their Dues

In 2011 and 2013, the Auditor General of Ontario reported that multiple SFL holders had not maintained their minimum balance requirement for the purposes of the Forest Renewal Trust, contravening the terms of their licences.<sup>44</sup> The Auditor reported \$45 million in stumpage fees were outstanding in 2011, and that the province was still owed \$40.6 million in 2013.<sup>45</sup> The Auditor also concluded that MNRF lacked appropriate measures and controls to ensure that Crown forest revenue was appropriately calculated and submitted.<sup>46</sup> MNRF itself has acknowledged that the lack of indexation to inflation of the Forest Futures Trust charge to companies since 1997 has undermined the ability of that trust to meet its legislated purposes.<sup>47</sup>

## Subsidies

Since 2005, MNRF reports that the forestry sector has received more than \$1 billion through various provincial incentives and subsidies.<sup>48</sup> For example, the sector received more than \$223 million through the Northern Industrial Electricity Rate Program and the Northern Pulp and Paper Electricity Transition Program.<sup>49</sup> Additionally, up to \$75 million annually is given to companies to construct and maintain forest access roads, including within protected areas.<sup>50</sup>

## Can't See the Forest for the Lack of Monitoring

MNRF has multiple legal obligations to conduct monitoring in order to assess the impact of logging. In fact, MNRF can be charged by the Ministry of the Environment under the *Environmental Assessment Act* if some monitoring programs are not carried out sufficiently.<sup>51</sup> However, MNRF has had significant challenges carrying out some of these legal responsibilities.<sup>52</sup>

In our 2011/12 Annual Report, the ECO concluded that MNRF's wildlife monitoring program in all practical terms does not exist; part of the rationale of this program is to ensure that there are no declines of select forest-dwelling species as a result of logging.<sup>53</sup> According to the ministry's strategic direction, "directed new funding from MNRF is required to fund the core effectiveness monitoring data collection activities" of its own forestry guides.<sup>54</sup> Additionally, the Auditor General of Ontario has raised repeated concerns with the ministry's silviculture effectiveness monitoring program and its inconsistent implementation by the ministry.<sup>55</sup>

## Dwindling Oversight of MNRF

The Ministry of the Environment and Climate Change (MOECC) has an incredibly important oversight role over MNRF's management of our Crown forests through the *Environmental Assessment Act* (EAA). Forestry as an entire body of activity ultimately requires approval by MOECC. MOECC's environmental assessment approval sets a series of legally binding conditions that MNRF must follow in the way it manages Crown forests and regulates industry.

The 1994 Timber Class EA established 115 terms and conditions that had to be followed in forest management.<sup>56</sup> The development of the Timber Class EA entailed the most comprehensive set of forestry-related public hearings held in Canada.<sup>57</sup> It explored a wide range of issues, including:

- how and whether clear cuts should be conducted;
- the need for more and better quality regeneration and monitoring;
- how to manage wildlife and associated habitat;
- the importance of social and economic values; and
- the rights and roles of Aboriginal communities in forestry.<sup>58</sup>

In approving the Timber Class EA, the Environmental Assessment Board was clear that its approval rested on MNRF complying with the "long and detailed set of conditions, many of which were negotiated by the parties to the hearing." The Board noted that



the temporary (nine year) term of the approval meant that the approval would be tested in the forest. The Board was prescient in stating: "The successes and failures of the timber management planning process will be demonstrated. The results of monitoring will prove if MNRF is protecting non-timber values. The results of research into biodiversity conservation and landscape management will show if these are more than good ideas and can actually be implemented and produce the benefits we expect."<sup>59</sup> In 2003, MOECC replaced the Timber Class EA with an EAA Declaration Order that both reduced MNRF's forest management responsibilities and significantly weakened, but did not eliminate, MOECC's oversight role. Declaration Order MNR-71 reduced the original 115 terms and conditions to 55. Major changes included: extending the requirement for forest management plans to every 10 years instead of every five; removing details from the public consultation, inventory and data requirements; removing the EA Board's restrictions on clearcut size and replacing with direction to follow MNRF's guide, as revised from time to time. In addition, the Declaration Order had no expiry date, although MNRF was required to prepare a report every five years.<sup>60</sup>

MNRF has proposed additional changes to its EAA coverage over the years.<sup>61</sup> Most recently, it has sought to combine its 2009 Declaration Order covering forestry in Ontario's Far North with Declaration Order MNR-71, as well as to further condense the terms and conditions.<sup>62</sup>

## Whittling Away at the CFSA

### The Government's Attempt to Fundamentally Alter the CFSA

In 2012, the government attempted to amend the *Crown Forest Sustainability Act, 1994* through a budget bill and with no public consultation.<sup>63</sup> Bill 55, the *Strong Action for Ontario Act (Budget Measures), 2012* proposed that forest management plans would no longer be required in circumstances to be determined later in regulation.<sup>64</sup> It also was proposed that the Minister of Natural Resources and Forestry could delegate any of his/her powers to a person or body, again subject to circumstances to be decided later.<sup>65</sup> After a public backlash, this proposed amendment was dropped from the final budget bill.

### Imperilling Species

In 2013, MNRF lowered the protections for species at risk from logging.<sup>66</sup> The *Endangered Species Act, 2007* prohibits the killing or harming of a species at risk or damaging its habitat.<sup>67</sup> Any person who wishes to engage in such prohibited activities requires approval from MNRF; as a term of this approval, the proponent normally would be obligated to take steps to achieve an "overall benefit" for the affected species at risk (i.e., the species is in a better state than before the activity). MNRF could deem a forest management plan to be a compatible approval provided that the overall benefit test was met.<sup>68</sup> Instead, MNRF's regulatory changes now exempt forest operations until 2018 from needing to meet this overall benefit requirement. Coupled with a lack of monitoring by MNRF, the practical result is that the government has little ability to ensure that timber harvesting is (or is not) causing declines of imperilled species.<sup>69</sup>



## ECO COMMENT

The *Crown Forest Sustainability Act, 1994* lays out a sophisticated vision for Ontario's public forests. At the heart of this law is sustainability; it seeks to ensure that not only the natural environment is protected, but also the vitality of our communities and the health of the economy. Ontario was at the forefront of forest policy when it passed this law in 1994.

Much has changed in the 20 years since the *CFSA* was enacted by the Ontario government. Economic downturns and globalization, in hand with climate change and biodiversity loss, have moved us into a different era. While government has responded with one-off changes to specific government policies and programs since then, no comprehensive assessment has ever been conducted to determine if the total forest management system is working.

The *CFSA* provided hope that MNRF would give non-timber values equal footing in forest management, be it for recreation, old growth protection, wildlife management, climate change adaption or countless other values. It is critical to examine whether the *CFSA's* vision of managing for the highest value forest use is being achieved on the ground by MNRF; gone should be the days when logging was the unquestioned preeminent use of our forests.

Significant challenges will present themselves in the decades ahead. External pressures beyond the direct control of the Ontario government will continue to alter the foundations of forest management, ranging from the profound impacts of climate change to global demand cycles in the timber market. It is imperative that our forest management system, led by the Ministry of Natural Resources and Forestry, be equipped and flexible enough to address such challenges. Most fundamentally, almost all of our forests are public resources on Crown lands; it is critical that they be managed to serve the needs of local communities, including Aboriginal communities. That imperative rests on ensuring a robust system that prioritizes the long-term health of our forests.

The *Crown Forest Sustainability Act, 1994* has been in place for two decades. The government should assess whether the Act, and the regulatory and policy regime it supports, are producing the desired social, economic and environmental outcomes. The need for such a comprehensive examination is not a condemnation. Rather, it is a necessity to ensure that our forests, one of our most important natural resources, are being managed based on the best possible information, practices and policies.

## Comment from the Ministry of Natural Resources and Forestry

MNRF appreciates the ECO comments and recognition of major improvements to forest management effected by the *Crown Forest Sustainability Act (CFSA)*. The *CFSA* is flexible and enables forest management for broad purposes, including sustainable use of forests for biodiversity, habitat, natural heritage conservation, recreation, wood supplies and communities. The Forest Management Declaration Order under the *Environmental Assessment Act* also includes legally binding conditions that MNRF must comply with in forest management including planning, harvesting, roads and forest renewal requirements.

MNRF monitors and maintains the forest management system in order to meet the objectives of the *CFSA*. MNRF has made many program improvements to address evolving social, economic and environmental pressures and to incorporate new science.

Both the *CFSA* and *Environmental Assessment Act* approval enable the development and maintenance of manuals such as the *Forest Management Planning Manual (FMPM)* and *Forest Information Manual (FIM)*, as well as a number of forest management guides. These key policy documents provide the specific direction and guidance for practitioners on planning and implementing forest operations. By design, these documents are reviewed and revised as required to accommodate new science, changing public expectations and lessons learned through implementation. There have been several revisions of these documents since the *CFSA* was first passed. For example, there have been three versions of the FMPM since the *CFSA* came into effect.

The effectiveness of forest management is assessed through Independent Forest Audits, State of Forest reporting, Auditor General Reports, Annual Reports on Forest Management and Five-Year Environmental Assessment Reports. These assessments do provide necessary feedback and MNRF has taken action to incorporate needed changes to ensure programs are efficient and effective. These reports are signalling the *CFSA* is still current, effective and robust to enable necessary program changes to occur.

MNRF remains committed to ensuring that the *CFSA* is relevant and has successfully undertaken a number of amendments to the Act since it was first passed. MNRF will continue to do so as appropriate.



---

<sup>1</sup> Section 1 of the *Crown Forest Sustainability Act, 1994*: "The purposes of this Act are to provide for the sustainability of Crown forests and, in accordance with that objective, to manage Crown forests to meet social, economic and environmental needs of present and future generations."

<sup>2</sup> In July 2014, the Ministry of Natural Resources was renamed the Ministry of Natural Resources and Forestry.

<sup>3</sup> Ministry of Natural Resources, "Ontario's Forests – Area of the Undertaking (AOU)," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02\\_164530.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_164530.html) (accessed September 23, 2013).

<sup>4</sup> Canadian Forest Service, "Statistical Data – Forest Management (Ontario)," <https://cfs.nrcan.gc.ca/statsprofile/forest/on> (accessed November 1, 2013). The annual average harvested area in Ontario between 1994-2012 was 189,008.68 hectares.

<sup>5</sup> Ministry of Natural Resources, "Ontario's Forests – Business and Forestry," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02\\_167493.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_167493.html) (accessed November 1, 2013). Ontario's forest products sector had 53,500 direct jobs in 2011.

<sup>6</sup> Ministry of Natural Resources, "Ontario's Forests – Forest Industry at a Glance," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD\\_091539.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD_091539.html) (accessed November 1, 2013). The value of Ontario's forestry sector was \$11.9 billion in 2011.

<sup>7</sup> Ministry of Natural Resources, "Ontario's Forests – Forest Industry Maps," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD\\_091542.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD_091542.html) (accessed November 1, 2013). MNRF categorizes 40 communities as highly dependent on employment in the forest sector to survive and 63 communities are identified as being moderately dependent.

<sup>8</sup> W.K. Fullerton, "The Evolution of Crown Land Forest Policy in Ontario," *The Forestry Chronicle* 60(2) (1984): 63-66.

<sup>9</sup> Section 6(2) of the (repealed) *Crown Timber Act*: "In subsection (1), the expression 'sustained yield' means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut."

<sup>10</sup> Section 28(2) of the (repealed) *Crown Timber Act* enabled the Minister to potentially require that licences or plans address other values such as watershed protection, fire protection and the preservation of beauty of the landscape.

<sup>11</sup> W.K. Fullerton, "The Evolution of Crown Land Forest Policy in Ontario," *The Forestry Chronicle* 60(2) (1984): 63-66.

<sup>12</sup> J. Cartwright, "Environmental Groups, Ontario's Lands for Life Process and the Forest Accord," *Environmental Politics*, 12(2) (2003):115-132.

<sup>13</sup> J. Benidickson, "Temagami Old Growth: Pine, Politics and Public Policy," *Environments*, 23 (1996): 41-50.

<sup>14</sup> Ontario New Democratic Party Caucus, *The Last Stand: Report of the Ontario New Democratic Party Caucus Task Force on Forestry* (Toronto: Ontario New Democratic Party Caucus, 1983).

<sup>15</sup> Government of Ontario, *Policy Framework for Sustainable Forests* (Toronto: Queen's Printer for Ontario, 1994), i.

<sup>16</sup> Section 2(3) of the *Crown Forest Sustainability Act, 1994*.

<sup>17</sup> Government of Ontario, *Policy Framework for Sustainable Forests* (Toronto: Queen's Printer for Ontario, 1994), 1.

<sup>18</sup> Ministry of Natural Resources, "Management Units in Ontario – April 2013," <http://www.mnr.gov.on.ca/stdprodconsume/groups/lr/@mnr/@forests/documents/document/261617.pdf>. (accessed September 24, 2013).

<sup>19</sup> MNRF is responsible for developing forest management guides that direct the content of forest management plans; these guides operate at various geographic scales and specify how different values should be accounted for in forest management plans. These values include conserving biodiversity, maintaining or enhancing wildlife habitat, preserving landscape aesthetics and tourism values, and protecting ecological processes. These key policy guides include the *Forest Management Planning Manual*, the *Forest Information Manual*, the *Forest Operations and Silviculture Manual*, and the *Scaling Manual*.

<sup>20</sup> Section 26 of the *Crown Forest Sustainability Act, 1994*.

<sup>21</sup> Section 68(1) and (2) of the *Crown Forest Sustainability Act, 1994* require MNRF to prepare the Forest Management Planning Manual and that the Minister shall ensure that forest management plans comply with it. Section 68(3) of the Act contains numerous requirements for the manual including, "the requirement that management objectives in each forest management plan be compatible with the sustainability of the Crown forest."

<sup>22</sup> Section 9(2) of the *Crown Forest Sustainability Act, 1994*.

<sup>23</sup> MNRF provides fine scale direction through a series of additional guides on forest management, silvicultural and societal values. Keeping all of these guides current to reflect the best possible knowledge is a key responsibility of MNRF; incorporating the best possible information is critical to create certainty for industry, communities, and the long-term management of forest health. By the late 1990s, a collection of over 30 forestry management guides provided additional direction on dealing with finer scale, specific issues. In 1999, the ministry initiated a review of the province's forestry guides with the aim to consolidate them down to five guides. It has taken MNRF 15 years to complete some of this new direction, as with the *Forest Management Guide for Boreal Landscapes* (2014) and the *Forest Management Guide to Silviculture in the Great Lakes-St. Lawrence and Boreal Forests of Ontario* (2014).

<sup>24</sup> According to MNRF, in February 2014, approximately 600 commercial-use FRLs (e.g., a company harvesting timber for profit) were active and roughly 2600 non-commercial FRLs (e.g., an individual cutting trees) had been issued.

<sup>25</sup> Section 27 of the *Crown Forest Sustainability Act, 1994*.

<sup>26</sup> Section 25 of the *Crown Forest Sustainability Act, 1994*.

<sup>27</sup> Section 54 of the *Crown Forest Sustainability Act, 1994*.

<sup>28</sup> According to MNR, there were 129 licensed mills that operated during 2013 and 12 active wood supply agreements.

<sup>29</sup> Section 4(1) of O. Reg. 160/04 (Independent Forest Audits).

<sup>30</sup> Ministry of Natural Resources, *Independent Forest Audit Process and Protocol* (Toronto: Queen's Printer for Ontario, 2013), 21-22.

<sup>31</sup> Ministry of Natural Resources, *State of Ontario's Forests* (Toronto: Queen's Printer for Ontario, 2012), 13.

<sup>32</sup> Government of Ontario, *Policy Framework for Sustainable Forests* (Toronto: Queen's Printer for Ontario, 1994), 1.

<sup>33</sup> Section 51 of the *Crown Forest Sustainability Act, 1994*.

<sup>34</sup> Section 48 of the *Crown Forest Sustainability Act, 1994*.

<sup>35</sup> Ministry of Natural Resources, "Ontario's Forests – Forest Renewal and Forestry Futures Trusts," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02\\_167463.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_167463.html) (accessed November 1, 2013).

<sup>36</sup> Section 22(1) of the *Crown Forest Sustainability Act, 1994*.

<sup>37</sup> MNRF has released state of the forests reports in 2001, 2006, and 2012.

<sup>38</sup> Condition 33 in *Declaration Order MNR-71* under the *Environmental Assessment Act*.

<sup>39</sup> The Nawiinginiima Forest Management Corporation became the first LFMC in 2012, operating in the area consisting of the Big Pic, Pic River, White River and Nagagami Forests.

<sup>40</sup> Government of Ontario, *Policy Framework for Sustainable Forests* (Toronto: Queen's Printer for Ontario, 1994), 1.

<sup>41</sup> Statistics Canada, "2001 Community Profiles," [www12.statcan.ca/english/Profil01/CP01/Index.cfm?Lang=E](http://www12.statcan.ca/english/Profil01/CP01/Index.cfm?Lang=E) (accessed November 28, 2013).

<sup>42</sup> Statistics Canada, *2011 Census Profile*. Statistics Canada Catalogue no. 98-316-XWE (Ottawa: Statistics Canada, 2012).

<sup>43</sup> Natural Resources Canada, "Statistical data," <https://cfs.nrcan.gc.ca/statsprofile/overview/on> (accessed November 28, 2013).



<sup>44</sup> Auditor General of Ontario, "Forest Management Program," *2013 Annual Report of the Office of the Auditor General of Ontario* (Toronto: Queen's Printer for Ontario, 2013), 330.

<sup>45</sup> Auditor General of Ontario, "Forest Management Program," *2013 Annual Report of the Office of the Auditor General of Ontario* (Toronto: Queen's Printer for Ontario), 329.

<sup>46</sup> Auditor General of Ontario, "Forest Management Program," *2011 Annual Report of the Office of the Auditor General of Ontario* (Toronto: Queen's Printer for Ontario), 130.

<sup>47</sup> Regulatory Registry, *Increase to the Forest Futures Trust (FFT) charge based on indexation*. [www.ontariocanada.com/registry/view.do?postingId=15002](http://www.ontariocanada.com/registry/view.do?postingId=15002) (accessed July 24, 2014).

<sup>48</sup> Ministry of Natural Resources, "Ontario's Forests – Forest Sector Investments," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD\\_091537.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD_091537.html) (accessed November 1, 2013).

<sup>49</sup> Ministry of Natural Resources, "Ontario's Forests – Forest Sector Investments," [www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD\\_091537.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STDPROD_091537.html) (accessed November 1, 2013).

<sup>50</sup> U.S. Department of Commerce, *Softwood Lumber Subsidies Report to the Congress* (2012), 13.

<sup>51</sup> Conditions 30, 31, and 38(f) in *Declaration Order MNR-71* under the *Environmental Assessment Act*.

<sup>52</sup> S. O'Malley, C.J.A. Wilkinson and G. Miller, "Nothing to Report: The Failure of Ontario's Provincial Wildlife Population Monitoring Program for Commercial Timber Harvesting," *Journal of Environmental Law and Practice*, 24(2) (2013):29-47.

<sup>53</sup> Environmental Commissioner of Ontario, "Nothing to Report: The Failure of the Provincial Wildlife Population Monitoring Program," *Losing Our Touch, ECO Annual Report, 2011-12* (Toronto: Queen's Printer for Ontario, 2012), 33-39.

<sup>54</sup> Ministry of Natural Resources, *Guide Effectiveness Monitoring: Strategic Direction* (Toronto: Queen's Printer for Ontario, 2011), 6.

<sup>55</sup> Auditor General of Ontario, "Forest Management Program," *2013 Annual Report of the Office of the Auditor General of Ontario* (Toronto: Queen's Printer for Ontario, 2013), 327-328.

<sup>56</sup> *Reasons for Decision and Decision: Class Environmental Assessment by the Ministry of Natural Resources for Timber Management on Crown Lands in Ontario* (20 April 1994), Environmental Assessment Board Decision EA-87-02.

<sup>57</sup> R.M. Ross, *A History of Forest Legislation in Canada 1867-1996* (Calgary: Canadian Institute of Resources Law, 1997), 11.

<sup>58</sup> *Reasons for Decision and Decision: Class Environmental Assessment by the Ministry of Natural Resources for Timber Management on Crown Lands in Ontario* (20 April 1994), Environmental Assessment Board Decision EA-87-02, iii-xii.

<sup>59</sup> *Reasons for Decision and Decision: Class Environmental Assessment by the Ministry of Natural Resources for Timber Management on Crown Lands in Ontario* (20 April 1994), Environmental Assessment Board Decision EA-87-02, 3.

<sup>60</sup> Environmental Commissioner of Ontario, "Environmental Assessment for Forest Management," *Choosing our Legacy, ECO Annual Report, 2003-04* (Toronto: Queen's Printer for Ontario, 2004), 94-99.

<sup>61</sup> See Environmental Registry #RA06E0012.

<sup>62</sup> See Environmental Registry #011-9374.

<sup>63</sup> Environmental Commissioner of Ontario, "No Right to Comment: Amending Environmental Laws in Budget Bills," *Losing Touch, ECO Annual Report, 2011-12, Part 1* (Toronto: Queen's Printer for Ontario, 2012), 13-14.

<sup>64</sup> Schedule 15, section 1(1.1) in *Bill 55, Strong Action for Ontario Act (Budget Measures), 2012* (Original version, 1st Reading).

<sup>65</sup> Schedule 15, section 68.2(1) in *Bill 55, Strong Action for Ontario Act (Budget Measures), 2012* (Original version, 1st Reading).

<sup>66</sup> O. Reg. 176/13 amended O. Reg. 242/08 (General) under the *Endangered Species Act, 2007* on May 31, 2013.

<sup>67</sup> Sections 9(1) and 10(1) of the *Endangered Species Act, 2007*.

<sup>68</sup> Section 18(1) of the *Endangered Species Act, 2007*.

<sup>69</sup> Environmental Commissioner of Ontario, *Laying Siege to the Last Line of Defence: A Review of Ontario's Weakened Protections for Species at Risk. A Special Report to the Legislative Assembly of Ontario* (Toronto: Queen's Printer for Ontario, 2013), 27.

# ACRONYMS

<b>CFSA</b>	<i>Crown Forest Sustainability Act, 1994</i>
<b>EA</b>	Environmental Assessment
<b>EAA</b>	<i>Environmental Assessment Act</i>
<b>FRL</b>	Forest Resource Licence
<b>LFMC</b>	Local Forest Management Corporation
<b>MOECC</b>	Ministry of the Environment and Climate Change
<b>MNRF</b>	Ministry of Natural Resources and Forestry
<b>SFL</b>	Sustainable Forest Licence



FOR MORE INFORMATION, VISIT  
**eco.on.ca**



**Environmental  
Commissioner  
of Ontario**

1075 Bay Street, Suite 605, Toronto ON, Canada, M5S 2B1  
Tel: 416 325 3377 | Fax: 416 325 3370 | Toll-Free: 1 800 701 6454  
Email: [commissioner@eco.on.ca](mailto:commissioner@eco.on.ca)